

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

WISCONSIN CARRY, INC,
DAVID BERNSON,
FRANK HANNAN ROCK,
GREG PLAUTZ, and
JEFF LEIFER

Plaintiffs,

Case No. 10-C-009

v.

CITY OF MILWAUKEE, CITY OF RACINE
CITY OF GREENFIELD, CITY OF MANITOWOC,
MICHAEL NIESKES, KURT KEZESKE,
JESSIE METOYER, and
RICHARD PRINCE

Defendants.

MOTION TO DISMISS ALL CLAIMS BY PLAINTIFF GREG PLAUTZ

Now comes the defendant City of Greenfield, by their attorneys, Crivello Carlson, S.C., and as and for their Motion to Dismiss all claims of Plaintiff Greg Plautz, hereby submits the following:

**MOTION TO DISMISS ALL CLAIMS OF PLAINTIFF GREG PLAUTZ FOR FAILURE TO
STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED PURSUANT TO FRCP
12(b)(6) AS ANY ASSERTED CLAIMS ARE MOOT, PLAINTIFF HAS NO STANDING TO
REQUEST RELIEF FOR INDIVIDUALS OTHER THAN HIMSELF AND ALTERNATIVE
MOTION FOR JUDGMENT ON THE PLEADINGS OF GREG PLAUTZ PURSUANT TO
FRCP 12(c)**

Defendant City of Greenfield moves the court for an order dismissing the claims and complaints of Plaintiff Greg Plautz pursuant to FRCP 12(b)(6), as the only specific factual allegations, circumstances, and occurrences upon which he bases his claim against this defendant allegedly occurred in May of 2009 (Complaint, paras. 46-49) and have passed without involvement of this defendant.

Plaintiff Plautz alleges that a single letter was sent to him by this defendant on May 18, 2009 which merely advised him of the possible exposure to individuals other than himself (*possible picnic attendees*) if they entered a school zone while armed at a picnic he was apparently contemplating. Therefore, as to individuals other than Plautz, Plautz has no standing to pursue any claim based on the advice contained in the letter.

In addition, Plaintiff Plautz has failed to indicate in any way whether any possible “picnic” occurred, and if so, how he or any other “picnic attendees” were affected in any way by the letter in question. Any issues or possible claims relating to the letter of May 19, 2009 are now moot and cannot be served or addressed by any of the relief Plaintiff might request from this defendant (i.e. injunctive relief would serve no purpose.) In addition, any speculative relief that Plaintiff might presently request as against this specific defendant does not form the basis upon which a claim might be granted and is not ripe for this court to address in any claim against this specific defendant.

In the alternative, Defendant City of Greenfield respectfully requests Judgment on the Pleadings, pursuant to FRCP 12(c), dismissing the complaint of Plaintiff Greg Plautz on the same grounds as those set forth in the preceding motion under FRCP 12(b)(6).

Dated this 26th day of April, 2010.

BY: s/ William W. Ehrke
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